IN THE HIGH COURT OF BOMBAY AT GOA.

APPEAL FROM ORDER NOS. 17 AND 34 OF 2002.

State of Goa, represented
by the Executive Engineer,
W.D. XIII (I.D.), P.W.D.,
Margao, Goa. ... Appellant

Versus

Shri C.M.A. Kadar, P.W.D.
Contractor, A/3 Surendra
Building, Khadpaband,
Ponda, Goa. ... Respondent.

Mr. V.P. Thali, Addl. Advocate General with Miss S. Linhares, Addl. Govt. Advocate for the Appellant in both Appeals.

Mr. S.D. Padiyar, Advocate for the Respondent in both Appeals.

Coram: P.V. HARDAS, J.

Date: 12th July 2002.

ORAL JUDGMENT.

By consent of parties both the matters are taken up for final hearing at the stage of admission.

2. Both these Appeals from Order can be decided by a common Judgment.

Appeal from Order No. 17 of 2002 arises from an Order dated 20th September 2001, passed by the IInd Additional District Judge, South Goa, Margao, in Civil Miscellaneous Application No. 157 of 1998 dismissing the objections filed by the present appellant under Section 34(2) of the Arbitration and

Conciliation Act, 1996, challenging the arbitral award dated 14th March 1996.

Appeal from Order No. 34 of 2002 arises from an Order dated 20th September 2001, passed by the IInd Additional District Judge, South Goa, Margao, in Civil Miscellaneous Application No. 156 of 1998, dismissing the objections filed by the present appellant under Section 34(2) of the Arbitration and Conciliation Act, 1996, challenging the arbitral award dated 14th March 1996.

3. I have heard Mr. Thali, learned Addl. Advocate General for the appellant and Mr. Padiyar, learned counsel for the respondent. The learned counsel for the appellant has urged before me that the learned IInd Additional District Judge, South Goa, Margao, while dismissing the objections filed by the applicant, has not intrinsically examined the objections but has dismissed the objections on the ground that misconduct of the Arbitrator as a ground is not available for setting aside the Award under Section 34 of the Arbitration and Conciliation Act, 1996.

4. The learned IInd Additional District Judge, South Goa, Margao, by the Orders impugned in the present appeals, has dismissed the objections filed by

the appellant. At paragraph 6 of the impugned Orders the learned trial Court has held that the Award is challenged mainly on the ground that the Arbitrator has misconducted himself etc.. It appears that the learned trial Judge has not examined the objections on their merits but has merely proceeded to dismiss the objections on the ground that misconduct is alleged against the Arbitrator. There is no evaluation of the objections on merits. In view of this the Orders impugned in the Appeal from Order Nos. 17 and 34 of 2002 cannot be sustained.

5. The Appeals, therefore, partly succeed. The impugned Order is quashed and set aside in both the Appeals and both the Appeals are remanded to the learned trial Court for deciding the objections afresh.

6. In the result, Appeal from Order Nos. 17 and 34 of 2002 are partly allowed with no order as to costs.

(P.V. HARDAS)
JUDGE.

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